American Water Works Association
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Funding, Management, and Compliance Assistance

under the Safe Drinking Water Act

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Before the House Subcommittee on the Environment
May 19, 2017

Good morning, Chairman Shimkus and members of the subcommittee. My name is Kurt Vause and I am Special Projects Director for the Anchorage Water and Wastewater Utility in Anchorage, Alaska. I also serve as chair of the Water Utility Council and acting chair of the Asset Management Committee of the American Water Works Association, on whose behalf I am speaking today. We deeply appreciate this opportunity to offer the viewpoints and experiences of drinking water providers to the important deliberations and decisions of this committee.

The Safe Drinking Water Act last saw significant amendment in 1996. That bill was an important improvement over the previous act as it created a very useful finance tool, the state revolving loan program, and set down a data-informed, methodical process for setting new regulations and revising existing ones. The last point is very significant. The Stage 2 Disinfection By-

Products Rule and Enhanced Surface Water Treatment Rule were major rulemaking efforts and have resulted in significant investments to upgrade treatment plants across the country. In the coming months, we expect to see a revised Lead and Copper Rule that will trigger important changes in the way communities address lead exposure. However, an updating of the 1996 Amendments to the SDWA is overdue. Our 2012 report, “Buried No Longer: Confronting America’s Water Infrastructure Challenge” pointed out that this nation must spend $1 trillion on drinking water infrastructure in the next 25 years to maintain our current levels of service. Based on our past observations, the cost of maintaining wastewater infrastructure are about equal. The discussion draft of drinking water legislation the subcommittee is considering takes a good first step in that direction. I will address certain features in this early draft and some additional issues.

Consolidation, partnerships or regionalization

Providing safe drinking water to communities requires a complex mix of engineering, capital investment, management, science, community engagement, and regulatory resources. This complexity makes it particularly difficult for many small systems to remain in compliance wiith regulation and maintain their infrastructure. Some small systems are finding it increasingly difficult to remain in compliance with regulations and remain fiscally sustainable. One option to help address the sustainability challenge leverages consolidation or regionalization to share resources among these systems, many whom serve small communities. Regionalization for water utilities encompasses anything from physical connection to shared management, engineering, operations or purchasing resources.

States at times encourage consolidation of these smaller, struggling systems into neighboring larger, stronger water utilities. The larger utility faces a regulatory compliance burden in these

merger or acquisition situations when the challenged system is not in compliance with regulations. By merging, the larger utility inherits the compliance challenge, and status, of the utility it means to serve. The SDWA ought to provide a grace period for the newly merged system to come into compliance with regulation. We understand this would have to be a finite period of time and would be happy to sit down with the committee and work out more details.

Some form of consolidation or regionalization should be one of the options a water system explores when it faces regulatory compliance or financial challenges. This exploration could become one of the factors weighed in ranking SRF loans or in bringing a system into compliance. The authorizing language for the state revolving loan fund prohibits the use of an SRF loan to “finance the expansion of any public water system in anticipation of future population growth.” This effectively prohibits accessing an SRF loan until after a community has already grown. The rapid growth of communities in suburbs, the Sunbelt, the West, and even some city centers, already makes keeping up with infrastructure needs a challenge without the expansion prohibition of SRF. Drinking water and wastewater pipes, as well as roadways and sidewalks, must be built to meet the growing needs of a community, or in lockstep with rehabilitation efforts. We understand that the original intent of the language of the SRF was to prohibit use of this funding to support reckless sprawl. However, population trends, including infill, brownfield reclamation and urbanization make this provision obsolete for many communities.

The law could be improved by making it clear that using the SRF to help finance projects of consolidation for efficiency of operations and regulatory compliance does not violate the anti-sprawl provision. It should also give more leeway to utilities that clearly see future growth in certain areas near their current service areas.

Asset management

All utilities manage their assets, but the practice we now formally call asset management is more scientific and focused. The goal of infrastructure asset management is to meet a required level of service, in the most cost effective manner, at an acceptable level of risk, through the management of assets for present and future customers. (AWWA, 2015). Advanced asset management practice helps a utility understand the state of what assets it has, the required service levels assets are to provide, the risk of asset failure to achieving utility objectives, and what operations and maintenance strategies are best to use. It is matched with the development of a long-range financial plan to finance and fund utility operations so together, the right assets are available at the right time for the right price. This knowledge helps utilities get the most out of the dollars invested and meet required service standards.

We do not believe a specific level of asset management practice should be mandated because that would put Congress or a regulatory agency in the business of defining asset management practices. Utilities vary too greatly in strategic objectives, size, types of assets, geography, climate, source waters, types of water treatment and distribution, etc., for a federal definition to be practical. Professional organizations such as AWWA are making education in asset management practice an ongoing part of our educational efforts for members. For example, for AWWA's annual conference to be held this coming June, I helped develop a track of sessions on project infrastructure and asset management with five individual sessions containing 27 separate presentations. For our Water Infrastructure Conference in Houston in the fall, AWWA's Asset Management committee was asked to assemble a hands-on session for developing asset management plans.We have a web page dedicated to asset management that provides access to publications, journal articles, and similar resources. We believe in educating water providers

and related professionals about leading asset management practices and will continue our outreach efforts in this field.

Public water system supervision (PWSS) grants

Last month, AWWA cosigned a letter to congressional appropriators urging that PWSS grants not be cut in the fiscal year 2018 budget, as was proposed in the president's budget. We explained, "State drinking water programs use PWSS funds to ensure that water utilities have the information, technology, and capabilities to meet their mandated regulatory responsibilities – an essential component of public health protection.

"Utilizing the PWSS grants, these state programs provide educational programs, training and technical assistance where needed. In other words, the PWSS grant program provides the means for states to work with drinking water utilities to ensure that American citizens can turn on their taps with confidence that the water is both safe to drink and available in adequate quantities.

"PWSS funds are distributed to the states, five territories, and the Navajo Nation to provide oversight of approximately 151,000 public water systems; assist in their understanding of their regulatory responsibilities; and assist in consistent compliance and enforcement of drinking water regulations, particularly where public health may be threatened."

Cosigning the letter were the Association of Metropolitan Water Agencies, Association of State Drinking Water Administrators and the National Association of Water Companies. It is Attachment A to this testimony.

SRF enhancements

We addressed the subcommittee earlier in the year about areas for exploring improvement in the state revolving loan fund program. We will reiterate that the application process seems to widely vary from state to state. We encourage the U.S. Environmental Protection Agency to convene SRF stakeholders to develop educational materials to help guide states streamline and normalize the application and loan capitalization process. Right now, we see a once-a-year snapshot of undisbursed SRF balances in each state. The report we saw from June 2016 showed states with everywhere from 2 to 38 percent of their SRF capitalization funds undispersed at the end of the states' fiscal years. That annual snapshot may not be be fairly portraying how efficiently states are moving money or it may be showing where help is needed to get SRF loans out the door. We just don't have the data to know either way. We urge that states be required to provide quarterly snapshots of undisbursed balances to we know where help is needed.

SRF loans require recipients to track compliance with state and federal goals for minority, women and/or disadvanted business enterprise participation. To comply with these goals, different programs of various primacy agencies can stipulate different methods of tracking. This is another example of where we encourage the U.S. Environmental Protection Agency to convene SRF stakeholders to develop educational materials to help guide states in order to streamline recipients administration of loans.

Another enhancement is added flexibility in repayment terms of SRF loans. To some communities, the terms of repayment will necessarily lead to a limited use of SRF financing of critical infrastructure needs. Adding more flexibility in repayments, such as longer periods for

repayment of principal and interest on loans, not to exceed the useful lives of assets acquired, offers states another way to enhance affordability.

The SRF currently requires compliance with Davis-Bacon and Buy America laws and proof of cross-cutting compliance with other environmental laws. Altogether, this not only raises the burden of application for an SRF loan – particularly for smaller systems – but exposes the utility receiving the loan to additional legal hazards. A number of states and municipalities have their own Davis-Bacon-like or Buy America or environmental cross-cutter laws. In such states, the federal requirements are a redundancy and still require their own documentation. We applaud efforts to try and streamline the cross-cutter requirements in the discussion draft. We encourage the committee to look at other opportunities to streamline similar requirements. For example, there is a waiver available from Buy America requirements if the cost of domestic materials causes the cost of the entire project to increase by 25 percent. This is an unrealistic requirement as materials alone often are less than 25 of a total project's costs. We urge that this be changed to make the waiver available if the domestically produced material costs in question themselves are more than 25 percent greater than materials meeting the same quality and performance requirements.

Source water protection

The necessity of protecting our source waters was dramatically illustrated in August 2014 when the Toledo, Ohio water system had to shut down because of harmful algal blooms in Lake Erie.

AWWA and other water associations believe strongly that it is better to prevent contaminants from entering a watershed than to treat them after they have entered water supplies. That is why we have, for example, ramped up efforts to educate water utilities about partnership

programs at the U.S. Department of Agriculture in which utilities work out source water solutions in a cooperative manner with upstream farmers and ranchers.

We note that the discussion draft would allow up to 10 percent of the annual SRF capitalization grants to a state to be used for source water delineations, assessments or updates. We note that already, states are allowed to use up to 4 percent of the capitalization grants to administer the SRF and another 27 percent for other purposes. In this era when we are trying hard to reinvest in our nation's water infrastructure, we question this diversion. We would definitely want to see such diversions capped to a finite number of years, such as fours years, as it was in the 1996 Amendments.

Water infrastructure finance

As we have said before to Congress, local rates and charges have been, and will likely always be the backbone of local water system finance. However, when major infrastructure projects are required, either to comply with regulations or to replace aging infrastructure, there is a need for a quicker, larger infusion of cash than those rates and charges can provide. That is where the toolbox of utility finance comes into play. This spring AWWA cosigned a two-page summary of how the federal government can assist water utilities in finance challenges. The highlights are as follows:

1. Preserve the tax-exempt status of municipal bonds.
2. Provide fully authorized funding for the Water Infrastructure Finance and Innovation Act (WIFIA).
3. Double appropriations for the drinking water and wastewater SRF programs.
4. Remove the annual volume caps on private activity bonds for water infrastructure projects.

Note that earlier in this testimony, we recommended improved tracking of SRF capitalization grants. We urge that Congress and EPA implement measures such as quarterly reporting of undisbursed SRF funds before providing additional SRF funds. The committee is already familiar with the value of the SRF program, particularly for water systems with the greatest compliances challenges. WIFIA is a relatively new program, but its potential value for rehabilitating the nation's water infrastructure was illustrated dramatically this spring. Congress appropriated funds for WIFIA to begin making loans last December. Applying for a WIFIA loan is a two-step process. First a utility or community sends a letter of interest to EPA. That triggers a dialogue between the agency and the utility or community. Then if the agency sees that the utility or community is likely to qualify for a WIFIA loan, it encourages the utility or community to file a formal application.

EPA accepted the first round of letters of interest until midnight April 10. It received 43 letters of interest for drinking water, wastewater and stormwater projects. Congress appropriated enough money for WIFIA to award about $1 billion in loans. The letters of interested received in April sought about $6 billion in WIFIA loans, and because WIFIA only funds 49 percent of a project's costs, that means those letters of interest were for about $12 billion in water infrastructure work. We are grateful for the funds Congress appropriated in December and for the additional $10 million appropriated in the recent continuing resolution, and we urge Congress to appropriate the fully authorized $45 million for FY2018. WIFIA represents a great investment for the federal government since it is strictly a loan program with no grants. Funds supporting infrastructure projects come back to the Treasury. Modeled after the successful transportation program,TIFIA, WIFIA leverages appropriations to maximize investment. The credit history of water utilities supports WIFIA's ability to provide a leverage ratio of up to 1:65 according to congressional estimates. A fully authorized FY2018 WIFIA would support nearly $3 billion in needed infrastructure investment.

Cosigning the two-pager on finance with AWWA were the Association of Metropolitan Water Agencies, the National Association of Clean Water Agencies, the Water Environment Federation, the U.S. Water Alliance, the Water Environment Research Foundation, the Water Research Foundation, WateReuse and the Water and Wastewater Equipment Manufacturers Association. It is Attachment B. We realize that the tax code and actual appropriations are outside the jurisdiction of this committee, but we do urge you to contact your colleagues on the relevant committees in support of these policies and funding.

Integrated Planning

AWWA has taken notice of work by various members of Congress to help provide states and municipalities with greater flexibility to prioritize and more effectively manage obligations under the Clean Water Act (CWA). In fact, just yesterday, the House Transportation and Infrastructure Subcommittee on Water Resources and Environment held a hearing on “Improving Water Quality through Integrated Planning.” This hearing examined the difficulties that communities face in meeting the regulatory requirements of the CWA given dwindling resources, as well as codifying the 2012 Integrated Planning Framework developed by EPA in order to help communities meet their regulatory obligations. AWWA is pleased with this development, and would like to urge this subcommittee to expand that work and bring the drinking water sector into the integrated planning process. Communities and municipalities don’t look at their regulatory obligations in a vacuum, and must view water holistically. AWWA recommends Congress include drinking water requirements containined with the 1996 amendments of SDWA in any integrated planning framework to give communities across the country the flexibility to more effectively meet their regulatory obligations, while also better protecting public health.

This concludes my remarks, and I will be happy to take questions from the subcommittee. We also look forward to continued dialogue with this panel after this hearing.

What is the American Water Works Association?

The American Water Works Association (AWWA) is an international, nonprofit, scientific and educational society dedicated to providing total water solutions and assuring the effective management of water. Founded in 1881, the association is the largest organization of water professionals in the world.

Our membership includes more than 4,000 utilities that supply roughly 80 percent of the nation's drinking water and treat almost half of the nation’s wastewater. Our 50,000 members represent the full spectrum of the water community: public water and wastewater systems, environmental advocates, scientists, academicians, and others who hold a genuine interest in water, our most important resource. AWWA unites the diverse water community to advance public health, safety, the economy, and the environment.

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